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DATE FILED: APR 03 2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SALVADOR BELTRE,

Petitioner,

-against-

UNITED STATES OF AMERICA,
Respondent.
-----X

ORDER

1: 08 Civ. 01683 (PAC)

1: 05 Cr. 00208 (PAC)

HONORABLE PAUL A. CROTTY, United States District Judge:

Petitioner, proceeding pro se, seeks the appointment of counsel in this case. 28 U.S.C. § 1915(e)(1) provides: “The court may request an attorney to represent any person unable to afford counsel.” In assessing petitioner’s application, I must examine the substance and likely merits of the underlying claims as they appear at this early stage of the proceeding. The petitioner claims that his counsel was ineffective because counsel failed to:

- (1) challenge the 16 level enhancement in calculating the applicable offense level;
- (2) obtain a reduction due to petitioner’s “status as a deportable” alien;
- (3) emphasize petitioner’s “family ties and cultural assimilation;”
- (4) argue concerning “fast-track policy disparities,” and finally;
- (5) recognize that offenses committed “on the same date are treated as one offense.”

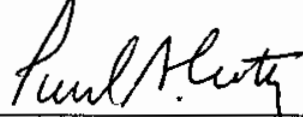
These claims do not appear to be meritorious and in any event, based on the petition, appear to be well within the grasp of petitioner’s ability to investigate the crucial facts and to present his case. The issues raised are not complex, nor is there any reason,

at least at this stage, "why appointment of counsel would be more likely to lead to a just determination." Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986).

Petitioner's application for the appointment of counsel is denied; the claims can be adequately investigated and prosecuted without the need for counsel as others have done in similar cases. The claim is not so legally or factually complex as to require counsel at this junction. The Government is directed to answer the petition. The Clerk of Court is directed to terminate the application for relief requested by document #3 on CM/ECF.

Dated: New York, New York
April 3, 2008

SO ORDERED

A handwritten signature in black ink, appearing to read "Paul A. Crotty", is written over a horizontal line.

PAUL A. CROTTY
United States District Judge

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